

Fresno, California

March 29, 2012

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Oliver Baines III	Councilmember
	Andreas Borgeas	Councilmember
	Lee Brand	Councilmember
	Sal Quintero	Councilmember
	Larry Westerlund	Councilmember
	Blong Xiong	Acting Council President
	Clinton Olivier	Council President

Mark Scott, City Manager
Bruce Rudd, Assistant City Manager
Jim Sanchez, City Attorney
Yvonne Spence, City Clerk
Yolanda Salazar, Assistant City Clerk

Cambodian Monks of Wat Khmer Fresno gave the invocation and President Olivier led the Pledge of Allegiance.

PROCLAMATION OF “FRESNO COIN GALLERY DAY” – MAYOR’S OFFICE

Read and presented.

PROCLAMATION OF “NATIONAL PURCHASING MONTH” AND RECOGNITION OF THE FINANCE DEPARTMENT PURCHASING DIVISION

The proclamation was read and presented and Purchasing staff was recognized.

APPROVE CITY COUNCIL MINUTES OF MARCH 22, 2012:

On motion of Councilmember Quintero, seconded by President Olivier, duly carried, RESOLVED, the Council minutes of March 22, 2012, approved as submitted.

APPROVE SUCCESSOR AGENCY MINUTES OF MARCH 22, 2012:

On motion of Councilmember Baines, seconded by President Olivier, duly carried, RESOLVED, the RDA Successor Agency minutes of March 22, 2012, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Quintero (1) spoke to the Employee Service Awards ceremony that was held yesterday and again congratulated all employees who were honored for 10 through 40 years of city service; and (2) acknowledged and thanked all the volunteers groups who participated in the Mosqueda Center clean up event last Saturday.

Councilmember Westerlund (1) noted he was absent from Council last week due to his Navy commitment; and (2) spoke to his attendance at a deployment ceremony for the 1072nd transportation company out of Fresno and wished Godspeed to the CANG unit deployed to Afghanistan.

Councilmember Borgeas noted the Board of Supervisors held a hearing Tuesday on high speed rail but they did not take a position, and advised a couple of draft letters were put out and the Supervisors would come back to that issue on April 24th.

Acting President Xiong extended get well wishes to Ambassador Phil Sanchez and the General's wife.

APPROVE AGENDA:

(1:30 p.m. "B") RESOLUTION – APPROVING THE “HIGH SPEED RAIL BUSINESS IMPACT INITIATIVE” AND ESTABLISHING THE HIGH SPEED RAIL RELOCATION DIVISION OF THE CITY OF FRESNO AND A CITY POLICY FOR STREAMLINED TIMELINESS AND GUIDELINES FOR ENTITLEMENT AND LAND USE PROCESSING FOR PROPERTIES AFFECTED BY HIGH SPEED RAIL – COUNCILMEMBER WESTERLUND

~AND~

(1:30 p.m. "C") RESOLUTION – OF THE MAYOR AND CITY COUNCIL SUPPORTING THE 144TH FIGHTER WING AND THE CONVERSION OF THE F-15s TO ENSURE THAT THE AIR NATIONAL GUARD CONTINUES TO THRIVE IN THE CITY OF FRESNO – COUNCILMEMBER WESTERLUND

The above items were laid over one week at the direction of Councilmember Westerlund.

On motion of Councilmember Westerlund, seconded by President Olivier, duly carried, RESOLVED, the **AGENDA** hereby approved, as amended, by the following vote:

Ayes	:	Baines, Borgeas, Brand, Quintero, Westerlund, Xiong Olivier
Noes	:	None
Absent	:	None

ADOPT CONSENT CALENDAR:

Councilmember Baines pulled Item **1-B** and Councilmember Westerlund pulled Item **1-F** from the Consent Calendar for separate discussion/action.

(1-A) APPROVE THE APPOINTMENT OF ADRIAN JONES TO THE FRESNO HOUSING AUTHORITY – MAYOR SWEARENGIN

(1-C) ACTIONS RELATING TO THE CONSTRUCTION OF NEW MANHOLE ACCESS SEWER STRUCTURES FOR THE WASTEWATER COLLECTION SYSTEM

#1 ADOPT CEQA FINDING OF CLASS 3 AND 4 CATEGORICAL EXEMPTION (NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES AND MINOR ALTERATIONS TO LAND)

#2 AWARD A CONTRACT TO FLOYD JOHNSTON CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF \$213,200 FOR CONSTRUCTION OF TEN NEW MANHOLE ACCESS SEWER STRUCTURES WITHIN THE CITY

(1-D) APPROVE REQUEST FROM AMERICAN PAVING COMPANY TO SUBSTITUTE KELLY C. BROYLES CONSTRUCTION, INC., AND SELF-PERFORM THE STORM DRAIN PORTION OF THE N. POLK AND W. SHAW AVENUES TRAFFIC SIGNAL MODIFICATION, WIDENING, AND STRIPING PROJECT

(1-E) CONSIDERATION OF ALIGNMENT AND WIDTHS OF PROPOSED PUBLIC STREETS FOR A 63-LOT INDUSTRIAL PARCEL MAP FOR PROPERTY LOCATED ON THE EAST SIDE OF N. BRAWLEY BETWEEN W. GETTYSBURG AND N. WEBER AVENUES

#1 RESOLUTION NO. 2012-52 – ADOPTING THE ENVIRONMENTAL FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MEIR AND THE MITIGATED NEGATIVE DECLARATION FOR PLAN AMENDMENT APPLICATION NO. A-09-02 (AIR QUALITY MND), PREPARED FOR E.A. NO. TPM-2011-10, AND APPROVING THE PROPOSED STREET ALIGNMENTS AND WIDTHS FOR VESTING TENTATIVE PARCEL MAP NO. 2011-10

(1-G) ADOPT MITIGATED NEGATIVE DECLARATION EA-11-008 AND THE PROGRAM FOR REPORTING OR MONITORING THE MITIGATION MEASURES CONTAINED THEREIN PURSUANT TO CEQA, AND FIND THAT WITH THE PROJECT SPECIFIC MITIGATION IMPOSED, THERE IS NO SUBSTANTIAL SIGNIFICANT DIRECT, INDIRECT, OR CUMULATIVE EFFECT ON THE ENVIRONMENT

#1 APPROVE ACQUISITION OF A PUBLIC STREET EASEMENT FROM A PORTION OF PROPERTY OWNED BY KYLE KIRCHER AND KRISTIN KIRCHER AT 7819 N. WILLOW AVENUE IN THE AMOUNT OF \$103,000 THAT IS NECESSARY FOR THE WIDENING AND PLACEMENT OF ASSOCIATED FRONTAGE IMPROVEMENTS ALONG THE SOUTH SIDE OF NEES AVENUE AND THE WEST SIDE OF WILLOW AVENUE AT THE SOUTHWEST CORNER OF THE NEES/WILLOW INTERSECTION IN THE COUNTY OF FRESNO, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR DESIGNEE, TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION

(1-H) ADOPT MITIGATED NEGATIVE DECLARATION EA-11-08 AND THE PROGRAM FOR REPORTING OR MONITORING THE MITIGATION MEASURES CONTAINED THEREIN PURSUANT TO CEQA, AND FIND THAT WITH THE PROJECT SPECIFIC MITIGATION IMPOSED, THERE IS NO SUBSTANTIAL SIGNIFICANT DIRECT, INDIRECT, OR CUMULATIVE EFFECT ON THE ENVIRONMENT

#1 APPROVE ACQUISITION OF A PUBLIC STREET EASEMENT FROM A PORTION OF PROPERTY OWNED BY THE DONALD L. LACEFIELD AND KIMBERLY A. LACEFIELD FAMILY TRUST DATED 11/19/03, AT 7835 N. WILLOW AVENUE IN THE AMOUNT OF \$89,900 THAT IS NECESSARY FOR THE WIDENING AND PLACEMENT OF ASSOCIATED FRONTAGE IMPROVEMENTS ALONG THE SOUTH SIDE OF NEES AVENUE AND THE WEST SIDE OF WILLOW AVENUE AT THE SOUTHWEST CORNER OF THE NEES/WILLOW INTERSECTION IN THE COUNTY OF FRESNO, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR DESIGNEE, TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION

On motion of Acting President Xiong, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Brand, Quintero, Westerlund, Xiong, Olivier
Noes	:	None
Absent	:	None

CONTESTED CONSENT CALENDAR:

(1-B) **RESOLUTION NO. 2012-53** – 56TH AMENDMENT TO AAR 2011-133 APPROPRIATING \$146,500 IN STATE OF CALIFORNIA CHILDHOOD LEAD POISONING PREVENTION PROGRAM (CLPPP) FUNDS IN THE DARM DEPARTMENT BUDGET TO CARRY OUT ELIGIBLE LEAD HAZARD CONTROL ACTIVITIES

Councilmember Baines stated several constituents informed him they tried to sign up for this program and many were found to be ineligible and upon his question HCD Manager Cazares advised of the reasons applicants could be found to be ineligible, and responded to additional questions/comments of Councilmember Baines relative to percentage/number of people that are not approved/do not qualify, how homes with low levels of lead are treated, who does the inspections, and his desire to meet with staff or the program operator to get a better understanding of the program.

On motion of Councilmember Baines, seconded by Councilmember Westerlund duly carried, RESOLVED, the above entitled Resolution No. 2012-53 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Brand, Quintero, Westerlund, Xiong, Olivier
Noes	:	None
Absent	:	None

(1-F) **RESOLUTION NO. 2012-54** – 61ST AMENDMENT TO AAR 2011-133 APPROPRIATING \$262,700 IN SALES TAX REVENUES TO FUND THE FRESNO COUNTY FIRE PROTECTION DISTRICT TRANSITION FEE

Councilmember Westerlund noted this matter has come up a couple of times since he has been on the council and a lengthy discussion occurred once with former Fire Chief Bruegman on how the City ended up paying the fire district to provide fire services in their own service area, stated the agreement terminates at the end of this year and he hoped there would be opportunity to

renegotiate, and presented questions/comments/concerns relative to the contract's termination language, if it was the city attorney's opinion that the City had the ability to terminate the agreement on 12/31/12, this set-up not being right/not making sense on the City's side, if staff has ever seen this type of agreement before, and what legal document(s) was in place to look to developers to pay the fee upon annexations and need for a source document to make that condition, with City Manager Scott and City Attorney Sanchez responding throughout. Mr. Sanchez stated staff could provide background information and a summary of the City's fundamental land use police powers and if Council has further questions the matter could be discussed at a future meeting.

On motion of Councilmember Westerlund, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Resolution No. 2012-54 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Brand, Quintero, Westerlund, Xiong, Olivier
Noes	:	None
Absent	:	None

(9:00 a.m. 'A') RESOLUTION – IMPLEMENTING THE “FISCAL SUSTAINABILITY POLICY”

City Attorney Sanchez advised a letter was received yesterday from the attorney for the FPOA relative to their request to remove this item from the agenda and read a portion of the letter on their position that if the item was not removed by yesterday they would assume the City willfully decided to ignore its legal obligation to meet and confer and FPOA would commence the necessary legal action. Mr. Sanchez stated if so inclined Council could consider a procedural step and vote to hold an emergency closed session to discuss this threat of potential litigation and added a 5-vote majority was needed with the finding that new information (the letter) arose after the posting of the agenda and a closed session was necessary to discuss the threat of litigation.

Councilmember Westerlund stated if members felt an emergency closed session was necessary to discuss the threat of litigation he would support that but stated the city attorney opined there was no good faith or fair dealing issue here; stated this policy was a framework for management purposes with no meet and confer requirements associated and he was of that opinion as well; and stated throwing in a letter from their attorney was a very old and tired tread that FPOA does every time there is an issue before Council, it was his personal opinion that Council should address this issue now, if FPOA had legal grounds to bring on a suit that was fine but he was sick and tired of having to go through this hoop every time there was an attempt to set up any sort of framework policy to deal with the City's very difficult financial issues, and he did not feel a closed session was needed and it was time to move forward with the policy Council had before them.

Councilmember Borgeas stated Councilmember Westerlund's comments were not without merit and in abundance of caution and in preparation for doing the right thing made a motion to convene in emergency closed session to review and discuss the letter and how it may bear on Council's discussion and options that exist, which motion was seconded by Acting President Xiong. Councilmember Brand added he did not think it would do any harm to have a briefing in closed session on what the City was up against and what the consequences were so that the right decision will be made in the end.

On motion of Councilmember Borgeas, seconded by Acting President Xiong, duly carried, RESOLVED, Council hereby finds that new information arose after the posting of the agenda and there is a need to add an emergency closed session item to the Council agenda to discuss the threat of litigation, by the following vote:

Ayes	:	Baines, Borgeas, Brand, Quintero, Westerlund, Xiong, Olivier
Noes	:	None
Absent	:	None

ADD-ON ITEM: EMERGENCY CLOSED SESSION TO REVIEW/DISCUSS LETTER RECEIVED FROM FPOA ATTORNEY ROCKY LUCIA REGARDING THE “FISCAL SUSTAINABILITY POLICY”

The City Council met in closed session in Room 2125 at the hour of 9:18 a.m. to consider the above matter and reconvened in regular open session at 10:18 a.m.

RESOLUTION NO. 2012-55 – IMPLEMENTING THE “FISCAL SUSTAINABILITY POLICY”, AS AMENDED

City Manager Scott noted he talked last week, but did not have the wording, about adding a fifth Fiscal Management Policy as he felt the City Manager should be obligated to bring forward any information immediately if presented with situations that look like the City will not be able to cover its financial obligations at any particular time, and added to Page 10 of the FSP, **F.M. Policy No. 5** as follows: *"The City Manager shall provide Mayor and Council prompt written notification of Manager's determination that a major government or enterprise fund is likely to have insufficient cash to cover its legal or budgetary obligations at year end."*, and expanded further on the importance of adding that policy.

(2 – 0) Kurt Wanless, President of Firefighters Local 753, stated it would be imprudent to adopt the policy at this point in time, requested more time for review/employee input/discussion with council members directly, and stated there were legitimate points in the policy but labor had some issues with the Labor Relations Policy Framework and there were real legal problems that needed to be worked out.

Councilmember Borgeas acknowledged this policy was not without its controversy, and stated issues needed to be worked through to arrive at fairness and what is best for the community, as an attorney the letter from FPOA's legal counsel concerned him and he wanted to make sure he is given the best advice and that the city is on strong legal ground, this document was not perfect and he would be recommending some changes, and the power of this document was that in one fell swoop it conceptualized the circumstance the city was in and recited preexisting policy but did so in a way that allowed for the framework to be built upon, and stated ultimately this was a management/legislative document and not a 'negotiation with bargaining unit' document and made a motion to adopt the FSP with the following changes: **#1)** Page 1, adding the following sentence to the end of the first paragraph: "Consistent with this policy the City retains its legislative discretion to adjust its policies consistent with existing economic circumstances facing the community."; **#2)** Page 10, **V. Labor Relations (L.R.) Policy Framework**, adding the italicized wording to the end of the first paragraph as follows: "...will start immediately and be applied consistently and progressively *through the meet and confer process.*"; **#3)** Page 12, **L.R. Policy No. 7**, changing the third sentence to read: "Except for existing MOUs, the City is under no independent legal obligation *to expand or increase benefits* for employees who have already retired."; and **#4)** **L.R. Policy No 8 – Limit "Premium Pay"**, *removing* the last sentence: "The City shall review the need for 'premium pays' and shall eliminate them unless there is a demonstrable need for such separate pay categories", *in its entirety*. Upon question Councilmember Borgeas incorporated **F.M. Policy No. 5** added by Mr. Scott in his motion, and the motion was seconded by Councilmember Brand.

Mr. Scott stated the Administration's intent in bringing this policy forward has been from the start to live up to their commitment to deal properly with items subject to the Myers-Milias-Brown Act, stated this was a management policy and it in no way preempted or locked anything in or out that was negotiable, and stated this needed to be done publicly and he endorsed Councilmember Borgeas' motion, elaborating on his comments throughout. City Attorney Sanchez added this was an attempt to bring about all of the existing practices the City has on labor management consistent with the previously-adopted Labor Management Act and these were not new things from a labor relations standpoint.

Upon question of Acting President Xiong, Mr. Sanchez clarified the motion was to approve the Fiscal Sustainability Policy as amended by both Mr. Scott and Councilmember Borgeas. Brief discussion ensued on addressing the amendment and the FSP separately, and if process called for the amendment to be voted upon before addressing the larger policy item, with Mr. Sanchez responding. Upon further comments and questions of Acting President Xiong Councilmember Borgeas (1) confirmed his motion was to accept the FSP with all the amendments and (2) he would not accept the friendly amendment request to address the amendment before the FSP as he felt the amendments allowed the document to more truly reflect the fairness that the City was trying to approach this issue with.

Councilmember Brand stated he understood the concerns of the labor groups but felt this policy was more of a philosophical roadmap to restore financial viability to the City, it was not a detailed plan with specifics on how the pieces will be put together, with passage this date the policy would set in motion a process to review and evaluate the financial status of the City, this was a bold initiative and unless there are shared sacrifices he did not see things getting better, and stated the key to solving this situation was to get the economy turned around, elaborating on his comments throughout.

Councilmember Westerlund spoke to a presentation he viewed on economic law and recovery and stated the city was in the greatest economic downturn in our generation, all had been hoping on hope that we would be able to go through 1, 2, 3 years and see things turn around but we were a long way from that and nowhere near to getting where we were before; stated \$100 million has been cut from the general fund, hard decisions have been made, and there have been some true givebacks from employees in year 1 and 2 but the city was left with trying to deal with years 3, 4 and 5; spoke to the need to get real concessions to sustain our organization, to how the City has run out of options, and to the Mayor proposing a framework and Council needing to take a step forward and

adopt it; and acknowledged the concessions that have already been made but stated the reality was things were not going to turn around and he would support this policy although he preferred it without the amendments, elaborating on his comments throughout.

Councilmember Quintero stated employee groups acknowledged and agreed last week with staff that there were merits in the policy and concerns with the upcoming budget; stated they asked for time to sit down and discuss their concerns with the Administration and he felt approval of the policy was not necessary for the Mayor talk with the city's labor groups adding everyone was in this together; stated he believed this policy discussion should be done during budget deliberations as there would be a truer picture of what needed to be looked at and discussions during budget with employee groups was important as questions are answered right away; and stated he felt this policy should not have been brought forth at this time and should have been wrapped into Council's budget discussions.

Councilmember Baines stated since the policy was presented to him almost all the comments from his colleagues have revolved around labor, the policy appeared to him to be much broader than that, and discussion this date was somewhat from the perspective that it only impacted labor but it did relate to something much larger; stated he was one council member that respected the idea of more time as that is always a fair and prudent request, his door has been open since the inception of this, and although he has talked to some employees he had not received any calls specifically from any of the bargaining groups; **(3 – 0)** spoke to past decisions that have been made and discussions/comments on the need for council members to do something more than what was being done and to approach their job better than they have in the past as it has not worked; and stressed Council was well aware of how serious the situation was, a document had been presented meant to address this unusual period of time, this was a tough issue for him especially with his FPOA friends being against the policy, and he appreciated the amendments made and although the document was not perfect he felt it was broad and allowed for flexibility; and stated this policy was bigger than just labor, it was leadership and something that everyone has been asking Council to do, and he would support it with the understanding that there was room to maneuver if necessary, elaborating on his comments throughout.

President Olivier stated times had definitely changed financially and Council and the Mayor did not come here to dismantle this great city and this organization; advised he had the opportunity to meet with some labor groups and the feeling he got was they felt with this document they were being singled out and that employees were part of the problem and added he could see how they felt that way but believed employees were part of the solution; stated everyone was in this together and he looked forward to further meetings, to everyone getting through this together, to preserving Fresno as one of our nation's greatest cities, and to continuing to deliver core services to the city's constituents; and thanked everyone for the discussion and stated he felt this policy was a road map for where the city wants to go and allowed everyone to know the playbook on how this organization will move forward.

On motion of Councilmember Borgeas, seconded by Councilmember Brand, duly carried, RESOLVED, the above entitled Resolution No. 2012-55 hereby adopted, *as amended*, adding **F.M. Policy No. 5** to Page 10 of **IV. Fiscal Management (F.M.) Policy Framework**, and making the following changes: #1) Page 1, adding the following sentence to the end of the first paragraph: "Consistent with this policy the City retains its legislative discretion to adjust its policies consistent with existing economic circumstances facing the community."; #2) Page 10, **V. Labor Relations (L.R.) Policy Framework**, adding the italicized wording to the end of the first paragraph as follows: "...will start immediately and be applied consistently and progressively *through the meet and confer process.*"; #3) Page 12, **L.R. Policy No. 7**, changing the third sentence to read: "Except for existing MOUs, the City is under no independent legal obligation *to expand or increase benefits* for employees who have already retired."; and #4) **L.R. Policy No 8 – Limit "Premium Pay"**, removing the last sentence, "The City shall review the need for "premium pays," and shall eliminate them unless there is a demonstrable need for such separate pay categories", in its entirety, by the following vote:

Ayes	:	Baines, Borgeas, Brand, Westerlund, Olivier
Noes	:	Quintero, Xiong
Absent	:	None

Mr. Sanchez reminded Council, in light of the March 28th letter from the FPOA attorney, of the threat of litigation related to the policy and the typical advice to avoid contact regarding that specific item.

(9:00 a.m. 'B') ACTIONS RELATING TO PREPARATION OF THE MASTER ENVIRONMENTAL IMPACT REPORT (MEIR) AND RELATED TECHNICAL STUDIES FOR THE FRESNO COMPREHENSIVE DEVELOPMENT CODE AND GENERAL PLAN UPDATE

#1 AUTHORIZE THE DARM DIRECTOR TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH THE FIRM OF MICHAEL BRANDMAN ASSOCIATES IN AN AMOUNT NOT TO EXCEED \$788,300 UTILIZING ARRA FUNDING FROM THE U.S. DEPARTMENT OF ENERGY (DOE), ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT (EECBG) TO PREPARE THE MEIR AND STUDIES

#2 RESOLUTION NO. 2012-56 – 62ND AMENDMENT TO AAR 2011-133 APPROPRIATING \$78,300 TO PREPARE THE MEIR AND RELATED TECHNICAL STUDIES

Assistant DARM Director Bergthold reviewed the issue and recommended approval, all as contained in the staff report as submitted, and Jason Brandman with Michael Brandman Associates, consultant for the MEIR, expanded further on the issue and their involvement in the process. Councilmembers Borgeas and Brand left the meeting at 11:22 a.m. during the presentation.

On motion of Councilmember Baines, seconded by President Olivier, duly carried, **RESOLVED**, the DARM Director authorized to enter into a Professional Services Agreement with Michael Brandman Associates as outlined above, and the above entitled Resolution No. 2012-56 hereby adopted, by the following vote:

Ayes	:	Baines, Quintero, Westerlund, Xiong, Olivier
Noes	:	None
Absent	:	Borgeas, Brand

(9:00 a.m. 'C') ACTIONS RELATING TO THE ASHLAN AVENUE GRIND AND OVERLAY PROJECT FROM PARKWAY DRIVE TO VALENTINE AVENUE

#1 ADOPT FINDING OF CEQA CATEGORICAL EXEMPTION

#2 AWARD A CONSTRUCTION CONTRACT FOR THE PROJECT TO MENELEE CONSTRUCTION IN THE AMOUNT OF \$602,492.80

Design Services Manager Goonawardena gave an in-depth review of the issue and recommended approval, all as contained in the staff report as submitted. Councilmember Borgeas returned to the meeting at 11:31 a.m.

Acting President Xiong stated his comments/questions also applied to the next item and stated the Ashlan/Valentine intersection was one of the main east/west connectors, it had seen a lot of issues and he was very supportive of this project, with the tough economic situation he wanted to make sure the City was cautious moving forward in terms of priorities, and presented questions relative funding for the project and source, priorities and criteria, if there was any impact to the general fund, and the heavy use of this connector and importance of outreach, with Mr. Goonawardena responding. Councilmember Brand returned to the meeting at 11:33 a.m. during discussion.

On motion of Acting President Xiong, seconded by Councilmember Baines, duly carried, **RESOLVED**, the above entitled finding of a CEQA Categorical Exemption hereby adopted, and the construction contract for the Ashlan Avenue grind and overlay project awarded to Menefee Construction as recommended, by the following vote:

Ayes	:	Baines, Borgeas, Brand, Quintero, Westerlund, Xiong, Olivier
Noes	:	None
Absent	:	None

(9:00 a.m. 'D') ACTIONS RELATING TO THE WEBER AVENUE GRIND AND OVERLAY PROJECT FROM VALENTINE TO CLINTON AVENUES

#1 ADOPT CEQA FINDING OF CATEGORICAL EXEMPTION

#2 AWARD A CONSTRUCTION CONTRACT FOR THE PROJECT TO AGEE CONSTRUCTION CORPORATION IN THE AMOUNT OF \$711,711

Design Services Manager Goonawardena gave an in-depth review of the issue and recommended approval, all as contained in the staff report as submitted. Councilmember Baines left the meeting at 11:36 a.m. during the presentation.

Acting President Xiong's comments/questions from the previous item were incorporated and a motion and second was made to approve staff's recommendation.

On motion of Acting President Xiong, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled finding of a CEQA Categorical Exemption hereby adopted, and the construction contract for the Weber Avenue grind and overlay project awarded to Agee Construction Corporation as recommended, by the following vote:

Ayes : Borges, Brand, Quintero, Westerlund, Xiong, Olivier
Noes : None
Absent : Baines

(9:00 a.m. 'E') RESOLUTION NO. 2012-57 – 60TH AMENDMENT TO AAR 2011-133 APPROPRIATING \$1,020,000 IN CALIFORNIA HIGH SPEED RAIL AUTHORITY (CHSRA) FUNDING IN THE DARM DEPARTMENT FOR THE HIGH SPEED RAIL STATION AREA PLANNING GRANT

City Engineer/APWD Mozier reviewed the issue and recommended approval, all as contained in the staff report as submitted. Councilmember Borgeas left the meeting at 11:43 a.m. during the presentation.

A motion and second was made to approve the staff recommendation. Councilmember Brand presented questions relative to whether this was the second HSR appropriation, if this grant was through the DARM department, if the funds would be used primarily for the downtown station, the process/timeline/when staff would be reporting back, if a site will be selected, scope of work, and if this was independent of the general plan update, with Mr. Mozier and Urban Planning Specialist Quan responding throughout. Councilmember Baines returned to the meeting at 11:46 a.m. during discussion.

On motion of Councilmember Westerlund, seconded by Acting President Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2012-57 hereby adopted, by the following vote:

Ayes : Baines, Brand, Quintero, Westerlund, Xiong, Olivier
Noes : None
Absent : Borgeas

(9:00 a.m. 'F') RESOLUTION NO. 2012-58 – 48TH AMENDMENT TO AAR 2011-133 APPROPRIATING \$2,616,700 FOR OPERATING PROGRAMS AND COMPLETION OF PREVIOUSLY APPROVED CAPITAL PROJECTS IN THE PUBLIC WORKS DEPARTMENT

City Engineer/APWD Mozier stated this was the department's traditional mid-year budget item and all the capital projects were previously approved and included in the Council-approved budget, and gave a brief overview and recommended approval to keep delivering the projects. Councilmember Borgeas returned to the meeting at 11:48 a.m. during the presentation

Dale (last name inaudible), 2179 E. Shaw Apt. B, spoke to Council's responsibility to look to the future and not just the current state of affairs and to the importance of fiscal accountability, sustainability and transparency.

Councilmember Westerlund presented questions and comments relative to the asphalt management program, maintenance of the pavement management system, and the funds previously allocated to address all asphalt deficiencies and importance of maintaining that someday, with Assistant Public Works director Krauter responding.

On motion of Councilmember Westerlund, seconded by Acting President Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2012-58 hereby adopted, by the following vote:

Ayes : Baines, Borgeas, Brand, Quintero, Westerlund, Xiong, Olivier
Noes : None
Absent : None

(9:00 a.m. 'G') RESOLUTION NO. 2012-59 – 509TH AMENDMENT TO MFS RES. 80-420 (PARKS SECTION) INCREASING THE GREEN FEES AT RIVERSIDE GOLF COURSE

ACM Rudd noted this item was before Council a couple of weeks ago and stated staff did meet with CourseCo and with their cooperation were able to reduce the rates significantly from what was previously before Council and explained **(4 – 0)**, all as contained in the staff report as submitted.

Councilmember Borgeas commended PARCS staff and CourseCo stating this was the third go-round/fee revision resulting in more equitable fee increases, especially for seniors and explained, and made a motion to adopt the resolution. Upon question of Councilmember Quintero Mr. Rudd stated there would be improvements to the course and the next largest investment was the renovation of the outdated locker room facility and encouraged Council to visit the golf course.

On motion of Councilmember Borgeas, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2012-59 hereby adopted by the following vote:

Ayes	:	Baines, Borgeas, Brand, Westerlund, Xiong
Noes	:	Quintero, Olivier
Absent	:	None

LUNCH RECESS – 12:00 NOON – 1:36 P.M.

(10:15 A.M.) HEARING TO ADOPT THE PER-CAPITA WATER USE TARGETS AS REQUIRED BY THE STATE WATER CODE AS PART OF THE 2010 URBAN WATER MANAGEMENT PLAN

#1 RESOLUTION NO. 2012-60 – APPROVING A METHODOLOGY (TARGET METHOD #1) FOR CONSUMPTION CALCULATION FOR DETERMINING URBAN WATER USE TARGETS AND ASSOCIATED PER-CAPITA WATER USE TARGETS FOR 2015 AND 2020 AS REQUIRED BY THE STATE WATER CODE

President Olivier announced the time had arrived to consider the issue and opened the hearing.

Assistant Public Utilities Director Querin introduced and gave an overview of the issue, all as contained in the staff report as submitted, and Supervising Professional Engineer Buche expanded further on the issue with an in-depth PowerPoint presentation which consisted of Purpose of the Public Hearing, Water Conservation Act of 2009 (SBx7-7) Overview, SBx7-7 Applicability, Steps for SBx7-7 Compliance, Department of Water Resources Target Methods, Comparison of SBx7-7 Compliance Targets, Comparison of Targets to Historical Per Capita Use, City's Plan to Comply with SBx7-7 Targets, Potential Economic Impacts of Compliance, and Next Steps.

Upon call, no one wished to be heard and President Olivier closed the public hearing.

Mr. Querin responded to questions of Councilmembers Westerlund and Xiong relative to the four different methodologies, per capita water use, the water conservation program and cost associated with savings, mandates and if there were any sources of funding to meet the targets, funding for community outreach, and strategy and if existing staff was sufficient to get the message out. Mr. Querin clarified this was an action item to adopt one of the methodologies and staff was recommending Methodology #1.

On motion of Councilmember Westerlund, seconded by Councilmember Quintero, duly carried, RESOLVED, the above entitled Resolution No. 2012-60 for Target Method Number 1 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Brand, Quintero, Westerlund, Xiong, Olivier
Noes	:	None
Absent	:	None

(1:30 P.M.) REVIEW OF THE CURRENT CENTRAL CALIFORNIA SOCIETY FOR THE PREVENTION TO CRUELTY TO ANIMALS (CCSPCA) CONTRACT AND DISCUSSION OF POSSIBLE AMENDMENT – PRESIDENT OLIVIER

President Olivier introduced the item and presented questions relative to what the status was of the contract, requests he made last week for complaint report information and for staff to meet with CCSPCA leadership, and what City's legal position/options were

with the end of this contract, with City Attorney Sanchez responding. President Olivier spoke to process and to possible action this date to form a Council sub-committee to work with the administration and Fresno County to try to find another provider, and possibly reach out to the SPCA to get their take on this situation, stated he could guarantee there would not be any type of decisive action, spoke to the background of the issue and why he placed this item on the agenda (concerns with the report made by the SPCA last year and the recent issue with community pet-rescue groups), and stated he still felt SPCA board meetings should be open to the public along with public appointees on the board.

Speaking to the issue/to concerns with the SPCA/in opposition to renegotiating a contract with the SPCA/to the need for change/to the importance of transparency and including the public in the process and/or/requesting the competent rescue groups be allowed to provide the service were: Jesse Magana, 2198 E. Pinedale; Thomas Woolley, 1637 N. Delno; Brenda Mitchell, 3684 N. Angus; Dale Mumm, ex-SPCA employee, 5344 N. Valentine **(5 – 0)**; Jolie Wiggins, 850 E. Hampton; Shelli Castanos, 1019 N. Peach; Becky Holly, 8547 W. Herndon; Mary Gross, 5730 N. First; Jolene Clark, 4564 W. Roberts; Stanley Nass, 1502 E. Calimyrna; Janie Partain, 5755 W. Barstow; Sara O, ex-SPCA employee; Jim Otey, 1425 Huntsman, Selma; Melissa Carmichael, 1490 W. Pinedale; and Kimberly Estrada, 2203 E. University.

Eric Wardwell, 467 N. San Pablo, spoke to need for owners to license their dogs and for Council to amend the ordinance to allow people to have more than four dogs. Continued speakers opposed to/concerns with the SPCA and in support of rescue groups providing the service were Sarah Bratley, 533 W. Bullard; Celia Lamaack and Son, 1621 W. Holland; Brittany George, 2055 Fairmont, Clovis; Mindi Samuels Miller, 2345 E. Gettysburg; and Craig Roberts, 12307 Gleason **(6 – 0)**.

President Olivier made a motion to create a Council sub-committee to work with city management, County administrative staff, the Board of Supervisors, and the constituency, which motion was seconded by Councilmember Borgeas,

Extensive Council discussion ensued. Councilmember Brand thanked everyone present and stated based on revelations yesterday this debate had shifted from trying to amend the contract to finding a replacement which was a major change, and presented questions relative to his request to the city attorney to review the contract, contract language relative to cancellation, and if there was a provision/requirement for the SPCA to lease out their facility for a certain period of time, with Mr. Sanchez responding. Councilmember Brand spoke to the task of finding another organization to provide the service and the amount of work that will have to be done in the six month transition period, and spoke in support of the motion and **offered his recommendations/suggestions that the sub-committee consist of two council members, two members from the Board of Supervisors or county appointees, and three public members at large to be tasked with identifying a facility/facilities to use, developing a capital and operating budget if another facility is developed, find operating organizations, develop a model for a new board of directors to include City and County representatives with meetings under the Brown Act, consider hiring of a consultant/expert in running animal control facilities, look into leasing back the SPCA's existing facilities, look at best practices of other cities, and move forward rapidly and return to Council and the Board of Supervisors in less than 90 days with recommendations to pursue, assuming the City and County work together. Councilmember Brand continued and spoke to his 2010 "Pet Responsibility Act", to the pet explosion in the community and the global solution being owners taking responsibility to stop multiple litters/spay and neuter outreach, to the 32 rescue organizations being the basis for a good working group to find a replacement, to the enormous burden the current SPCA has on their hands with a limited budget, to the need for staff to look into payments made to the SPCA and possible refund, and to this situation possibly being a blessing in disguise and an opportunity to address a problem that has been festering in the community for a long time.

Councilmember Borgeas stated he appreciated the passion shown and added if one door does close there are definitely other opportunities, and presented questions and comments relative to the SPCA's action yesterday, what caused the termination, the discussion that occurred on trying to make the SPCA more accountable/transparent, if a Councilmember or Supervisor appointee would necessitate the Brown Act, this problem going well beyond the City, City and County funding/it being imperative for the subcommittee to work directly with the County, the number of groups interested in providing the service/if they shared the same philosophy/if there was consensus on animal treatment, what the group's recommendation was on how to fill and who will fill the service if the SPCA is shown the door, and how something brand new can be created with consensus, with Mr. Sanchez, ACM Rudd and Ms. Mitchell responding throughout.

Acting President Xiong presented comments and questions relative to the challenges of the City and County working together and the diverse group of animal lovers having to mesh things out, to the need to set a realistic parameter/timeframe, to the need to be sensitive to the budget but not be dictated by it, what Council direction and timeframe staff would like to see to have the flexibility to work with the County and the constituency, differences of philosophy and if the subcommittee would be charged with arriving at a solution, and if the motion was sufficient in terms of direction, with Mr. Rudd responding. **Upon further question President Olivier accepted Councilmember Brand's suggestions into his motion, and brief discussion ensued on the number of City and County committee members.

Councilmember Baines thanked President Olivier for his leadership and for bringing this matter to the public arena which had been lacking, and spoke to the issue including how this matter started last year during budget deliberations, to the practical questions that had been asked by the advocate community about the SPCA and the lack of adequate answers, to the workshop that was subsequently held/questions posed by Council members/lack of answers from the SPCA, to how the issue of whether or not to fund the SPCA was planned for discussion in the upcoming budget hearings, to his discussions with the advocate community and commendation to them for being the most respectful and realistic he has ever dealt with, to the time that will be needed to get to no-kill shelters, to the unreasonable behavior of the SPCA being very disappointing, to his support for establishing the subcommittee, and to the importance of being actively engaged on the county side and having the involvement and help of the advocacy groups, elaborating on his comments throughout.

Councilmember Westerlund stated he appreciated the dialog and debate and advised he supported the motion, and commented on the issue including his good experience with the SPCA when his dog was lost, the 3,800 animals the SPCA deals with monthly on a small budget, the threats SPCA employees have received--including death threats--and the need to dial back the rhetoric and for group leaders to tone down individuals who are getting "too far out there" (7 – 0), euthanasia rates and no-kill shelters, the magnitude of the issue and him being unsure if the community will ever get to no-kill shelters, to the need for pet owners to take responsibility for their pets, and his appreciation for everyone's presence and input. Councilmember Baines left the meeting at 3:46 p.m. at the beginning of Councilmember Westerlund's comments and was absent for the remainder of the meeting.

Councilmember Quintero also thanked everyone who present stating it told Council a lot about a united community coming together, and stated he shared a lot of speaker and council member sentiments/comments, he would support the motion, he looked forward to seeing the end result including renewed energy and passion for pets, and stated over the years he had adopted from Fresno, Clovis and Madera shelters, pets were great companions, and again thanked everyone.

President Olivier referenced comments on the reality that was now facing the community and spoke to the reality being an existing system used for decades going away forever, to the City now being faced with providing animal control services to taxpayers which was a frightening task, to the need for and importance of consensus and finding common ground, to coming up with workable solutions to not only fulfill the legal obligation on strays/rabid/deceased animals but to also lower the kill rates/saving animals lives, to having public participation in the processes of caring for and rescuing animals, and to having open board meetings and giving the public a voice, and on behalf of Council thanked everyone for coming and for their input.

On motion of President Olivier, seconded by Councilmember Borgeas, duly carried, RESOLVED, a Council subcommittee hereby established; the subcommittee to consist of two (2) Council members, two (2) members from the Board of Supervisors or county appointees, and three (3) public members at large; President Olivier and Councilmember Baines hereby appointed to the subcommittee; and the subcommittee to work with city management, County administrative staff, the Board of Supervisors, and the constituency **and be tasked with the recommendations verbalized/outlined earlier by Councilmember Brand, by the following vote:

Ayes	:	Borgeas, Brand, Quintero, Westerlund, Xiong, Olivier
Noes	:	None
Absent	:	Baines

UNSCHEDULED ORAL COMMUNICATIONS:

Rusty, homeless, spoke to various issues; and Eric Wardwell spoke to the need to enforce the median island soliciting ordinance or rescind it; and commended Council on the SPCA issue and spoke in support of no-kill for healthy animals.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 4:10 p.m. having arrived and hearing no objection, President Olivier declared the meeting adjourned.

Approved on the _____5th_____ day of _____APRIL_____, 2012.

_____/S/_____ Clinton Olivier, Council President	ATTEST: _____/S/_____ Yolanda Salazar, Assistant City Clerk
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